

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

DAVID E. JOHNSON and	:	No. 4:CV-04-1407
KAREN M. JOHNSON,	:	
Plaintiffs	:	Complaint Filed 06/30/04
vs.	:	
RANDALL W. COUP,	:	(Judge Muir)
Defendant	:	

ORDER

May 9, 2005

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On April 20, 2005, Plaintiffs David E. and Karen M. Johnson filed a "Motion for Appointment of Mediator." Defendant Randall W. Coup does not concur in the motion. The deadline imposed by the local rules of this court for the Plaintiffs to file a brief in support of their motion was May 4, 2005. To this date no such brief has been filed.

Local Rule 7.5, entitled "Submission of Briefs Supporting Pretrial Motions," provides in relevant part

Within ten (10) days after the filing of any motion filed prior to trial, the party filing the same shall file an original and two (2) copies of a brief with the clerk and shall serve copies thereof on all parties. ... Unless otherwise ordered by the court, if supporting legal briefs are not filed within the time provided in this rule such motion shall be deemed to be withdrawn.

M.D. Local Rule 7.5. One reason to deny the Plaintiffs' motion is that it may be deemed withdrawn because of their failure to

file a brief in support of that motion. That is not the only reason to deny the motion.

In their motion the Plaintiffs seek to compel defendant Coup to participate in mediation. We are aware of no authority authorizing us to compel a party to do so under the circumstances of this case. The motion lacks merit.

NOW, THEREFORE, IT IS ORDERED THAT:

The Plaintiffs' motion to appoint a mediator (Document 16) is denied.

s/Malcolm Muir  
MUIR, U.S. District Judge

MM:ga